

REMARKS/ARGUMENTS

In view of the Examiner's comments regarding the interpretation of the claims, claim 1 has been amended in conformity with the Examiner's comments in an effort to define the claimed method more precisely.

Particularly as now amended, claim 1 is respectfully submitted neither to be anticipated under 35 U.S.C. 102(b) by Theurer et al (EP 0 429 713), nor to be obvious therefrom. In an effort to aid the Examiner in a full understanding of the German-language disclosure, applicant's agent submits the following translation of the pertinent passage beginning in col. 6, line 47, and ending in col. 7, line 19:

"When sensor device 10 of the first storage car 2 is activated as the filling progresses (Fig. 2), a signal activates control device 15 and this automatically switches the two conveyor band drives 11, 12 of the immediately following storage car 2 to a slow conveyor speed of the conveyor band arrangement 6. This causes storing of bulk material 20 in this immediately following storage car 2. After a selectively adjustable time delay, control device 15 automatically switches off conveyor band drive 11 of immediately following storage car 2, which precedes discharge car 17, so that the bulk material stored therein is displaced towards the forward storage car wall 21 (see Fig. 3). In this way, sufficient space is created in the rear of storage car 5 for receiving the bulk material on the conveyor band arrangement 6 of the immediately following and now storing storage car 2. This is continuously discharged into car 5 illustrated in Fig. 3 by bottom conveyor band 7 operating at low storage speed and transfer conveyor band 9."

As is clear from the above, the time delay creates

sufficient space in the car to enable the bulk material still remaining on the transfer conveyor band to be discharged into the car. Contrary to the Examiner's holding, nothing in Theurer et al '713 suggests "measuring" the amount of bulk material, much less measuring it along the entire length of the storage car, nor is there any teaching of completely and uniformly filling the car. The fact that the bulk material pile has reached the front of the car to be detected by sensor device 10 indicates nothing about the rest of the bulk material accumulating in the car, i.e. how far it has been filled with the bulk material. Theoretically, the rear portion of the car may be entirely empty although the forward portion of the pile has reached sensor device 10. This device could be arranged at any desired height at any point of the car, the only requirement being that the above-mentioned "sufficient space" is created.

Furthermore, contrary to the Examiner's holding, the storing speed mode of the bottom conveyor is **not** "automatically adjusted" in Theurer et al '713. Rather, after the time delay, the conveyor band drive is switched off. It is respectfully submitted that "automatically adjusting" and "switching off" are significantly different concepts. Also, concerning step (b), it should be noted that, in applicant's claimed method, the conveying speed of the bottom conveyor band in the rearwardly adjacent storage car is reduced to the storing speed mode after

the accumulated pile of bulk material in the first storage car has reached a forward end position. In Theurer et al '713, the pile of bulk material reaches its forward end position only after the time delay, i.e. when the bulk material on the transfer conveyor band has been fully discharged into the car while the rearwardly adjacent car is in its storing mode. In other words, the bulk material is **stored** in the rear storage car **parallel or simultaneously** with the **emptying** of the transfer conveyor band.

In view of the above, it is respectfully submitted that claim 1 is clearly patentable over Theurer et al '713. In view of the above argument explaining that sensor device 10 only determines the height of the pile at the point where the device is located but does **not measure** the amount of the accumulating pile of bulk material, claim 3 is respectfully submitted to be patentable on its own merit. The other claims depend on claim 1 and are believed to be allowable therewith.

The Examiner has repeated the rejection of claims 1 and 2 under 35 U.S.C. 102(b) as anticipated by Theurer et al '538. In view of the Examiner's comments, applicant has amended claim 1 to support the arguments for patentability.

In the rejection of claim 1, the Examiner has alleged that Theurer et al's method includes the steps of "measuring the

amount of the bulk material accumulating in a pile in the first storage car, and automatically adjusting the storing speed mode of the bottom conveyor." Applicant respectfully submits that nothing in the patent hints at these steps. In arguing for the patentability of these specific steps, applicant does **not** rely on such features as the experience and ability of the operator, as alleged by the Examiner. He merely mentioned this in pointing to the disadvantages of the prior art, and relies on the recitation of specific steps in applicant's claimed method to distinguish over the prior art.

In col. 5, lines 35-37, the patent states "When the car is **filled completely** (emphasis added) and uniformly, drive 18 and 28 are switched off," i.e. the movement of the bottom conveyor band is halted. This in no way suggests automatically **adjusting the storing speed mode** of the bottom conveyor, much less of doing so in response to a measured amount of the accumulating bulk material, as claimed, there being neither a **measured** bulk material amount or a conveyor **speed adjustment** in the patented method. Shutting off the conveyor drive when the car is completely and uniformly filled does not suggest any **measurement** of the amount of bulk material, as alleged by the Examiner. A mere look by the operator will show whether the car is completely filled, and no measurement is needed, nor is this implied in the Theurer et al teaching. **Measuring** an amount of bulk material in

a car is a positive step quite different from ascertaining that the car is filled.

While the patented box cars are automatically loaded and unloaded by operating the drive of the bottom conveyor, this in no way suggests automatically **adjusting the storing speed mode** of the bottom conveyor, much less of doing so in response to the measured amount of the accumulating bulk material, as claimed, there being neither a **measured** bulk material amount nor a conveyor **speed adjustment** in the patented method.

For the above reasons and those presented on pages 6 and 7 of the previously filed amendment, which are incorporated herein by reference to avoid redundancy, claim 1 is respectfully submitted clearly to be patentable over Theurer et al.

Claim 2 is respectfully submitted to be patentable on its own merit. This claim does not just require emptying the bulk material in the first storage car, as taught by the Theurer et al patent in the drawing figures and description cited by the Examiner but positively states that this is done "while the conveying speed mode of the bottom conveyor band in the adjacent storage car is reduced to the storing speed mode." This avoids the possible problems encountered in the method disclosed by Theurer et al when, for instance, as stated in the patent, the

preceding car has been completely filled and its bottom conveyor band has been halted. In this case, there may be no room in the car for any additional bulk material present on the transfer conveyor band. The step recited in claim 2 avoids any such difficulties by so adjusting the conveying speed mode of the bottom conveyor band in the adjacent car in relation to the storing speed mode that an optimal filling of the adjacent storage car is obtained. Nothing like this is even vaguely suggested by Theurer et al.


The rejection of claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over Theurer et al '538 in view of Theurer et al '713 is also respectfully traversed.

The Theurer et al' 538 teaching has been analyzed hereinabove. Contrary to the Examiner's holding, sensing the height of the pile by sensor 10 of Theurer et al '713 does **not** suggest, nor is it equivalent to, **measuring the amount** of the **accumulating pile** of bulk material, as disclosed and claimed by applicants. All that sensor 10 does is to record the height of the pile at one point, i.e. the forward end of the car. This says **nothing** about the amount of the accumulating pile or the height of the pile along the length of the car. Frequently, irregular amounts of bulk material are delivered into the car, and it may happen that a relatively small amount of bulk

material is present at the rear of the car when the pile has reached the height in front, at sensor 10, which causes the conveyor to be stopped. Merely stopping the conveyor band when a forward end of the pile of bulk material comes into contact with a sensor differs fundamentally from measuring the amount of bulk material accumulating in a pile by measuring the height of the pile along its entire length, rather than at a point. In '713, it is not the height of the **pile** that is sensed but merely a single point of the pile. Such a sensing does **not** measure the amount of the bulk material accumulating in the pile. Accordingly, the combined teachings held against claim 1 do not make the same obvious.

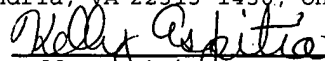
In view of the above, claims 1-3 are respectfully submitted clearly to be patentable over the art of record, and dependent claims 4 and 5 are believed to be allowable therewith. Favorable reconsideration and allowance of claims 1-5 are accordingly respectfully solicited.

Respectfully submitted,
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